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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/746,754
Filing Date: December 21, 2000
Appellant(s): SMITH ET AL.

PolyVision Corporation
For Appellant

EXAMINER'S ANSWER

MAILED

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GROUP 2800

This is in response to the appeal brief filed September 6, 2006 appealing from the Office action mailed November 17, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

1998 SMART Board product manual

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41-42 and 44-53 are rejected under 35 U.S.C. 102(b) as being anticipated by the May 1998 Smart board product manual

Regarding claim 41, (May 1998 Smart board product manual) discloses a calibration process for a whiteboard system comprising the steps of;

- (i) providing a whiteboard, (May 1998 Smart board product manual page 13)
- (ii) providing a computer (May 1998 Smart board product manual page 19)
- ii) providing a display device in communication with the computer, (1998 Smart board product manual page 18)
- (iv) initiating an calibration process (May 1998 Smart board product manual pages 27-28), and
- (v) performing the calibration of positions between the whiteboard and the computer the improvement comprising the step of initiating the calibration process at a location distant the computer. (May 1998 Smart board product manual pages 27-28)

Regarding claim 42, (May 1998 Smart board product manual) discloses the step of initiating the calibration process at a location distant the computer comprising

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detecting a touch in proximity to the whiteboard at a predetermined location. (May 1998 Smart board product manual pages 27-28)

Regarding claim 44, (May1998 Smart board product manual) discloses, the touch in proximity to the whiteboard comprising the step of pushing a button. (May 1998 Smart board product manual pages 27-28)

Regarding claim 45, (May1998 Smart board product manual) discloses the step of initiating the calibration process at a location distant the computer comprising pushing a button of a remote control device.

Regarding claim 46, (May1998 Smart board product manual) discloses a calibration process for a whiteboard system comprising the steps of:

- (i) providing a whiteboard (May 1998 Smart board product manual page 13)
- (ii) providing a computer (May 1998 Smart board product manual page 19)
- (iii) providing a display device in communication with the computer, (1998 Smart board product manual page 18)
- (iv) initiating the calibration process, wherein the calibration process includes the step of projecting a image onto the whiteboard, (May 1998 Smart board product manual pages 27-28)
- (v) performing the calibration of positions between the whiteboard and the computer the improvement comprising the step of initiating the calibration process being a one step process, directly after which the step of projecting an image onto the whiteboard takes place, wherein the one step process of initiating calibration occurs at a location distant the computer. (May 1998 Smart board product manual pages 27-28)

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Regarding claims 47 and 51, (May1998 Smart board product manual) discloses the step of initiating the calibration process at a location distant the computer comprising detecting a touch in proximity to the whiteboard at a predetermined location . (May 1998 Smart board product manual pages 27-28)

Regarding claims 48 and 52, (May1998 Smart board product manual) discloses the touch in proximity to the whiteboard comprising a push button (May 1998 Smart board product manual pages 27-28)

Regarding claims 49 and 53, (May1998 Smart board product manual) discloses initiating the calibration process at a location distant the computer comprising pushing a button of a remote control device. (May 1998 Smart board product manual pages 27-28)

Regarding claim 50, (May1998 Smart board product manual) discloses a calibration process for a whiteboard system comprising the steps of

- (i) providing a whiteboard (May 1998 Smart board product manual page 13)
- (ii) providing a computer (May 1998 Smart board product manual page 19)
- (iii) providing a display device in communication with the computer, (1998 Smart board product manual page 18)
- (iv) projecting a calibration image onto the whiteboard, , (1998 Smart board product manual page 28)

(V) detecting a touch at a point on the whiteboard corresponding to the projected calibration image onto the whiteboard directly preceded by a step of signaling the whiteboard directly preceded by a step of signaling the whiteboard system to project the

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calibration image, the step of signaling the whiteboard system occurring at a location distant the computer. (May 1998 Smart board product manual pages 27-28)

(10) Response to Argument

Appellant is reminded that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Appellant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless Appellant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

Examiner would like to note that Appellant is correct in stating the claims are in Jepson type format and *only* the portion after the phrase "the improvement comprising" is considered to be Appellant's invention. The portion of the claim preceding the phrase "the improvement comprising" is considered prior art.

In this instance Appellant argues that the prior art of record does not teach the step of *initiating* the calibration procedure occurs distant the computer. Appellant goes

on to argue that the terms "calibration" and "initiating calibration" have a special definition according to Appellant's specification that makes the claimed invention patentable over the prior art of record. Appellant also argues that the manual identifies five sequential steps to orient the smart board and again emphasizes that the examiner ignores the *special* meaning of initiating orientation/calibration as the step before projecting a GUI (Graphical user interface) on to the electronic whiteboard.

Appellant defines the calibration process as "a computer to relate positions on a whiteboard to locations on a display device, and thus, properly interpret touch inputs detected on the surface of the electronic whiteboard." *Appellant's specification Pge. 2, lines 9-12*. Examiner would like to note that the Appellant has not claimed the calibration process itself but regards only the initiation of the calibration process distant the computer as Appellant's invention. The examiner would also like to point out that the orientation/calibration processes in both Appellant's invention (as defined in Appellant's specification) and the prior art are substantially identical. Referring to figure 2, step 2 below the orientation/calibration process is done by clicking various points on the whiteboard to be sensed in order to calibrate the whiteboard. This portion of the manual reads on Appellant's definition of calibration.

Appellant defines "initiating calibration" on page 10 of Appellant's appeal brief as that action by a user to begin conventional three-step calibration process (i.e., the action prior to "a calibration image being projected onto a whiteboard") Also on page 10 of Appellant's appeal brief, Appellant points to page 2, lines 29-30 of Appellants specification stating that "the step of initiation is defined as the step before displaying a

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GUI (graphical user interface) onto the electronic whiteboard". Appellant also states on page 10 of the appeal brief that "the step of initiation, *in one example*, is the step before projecting a GUI onto the electronic whiteboard taking place distant a computer." According to the Appellant, if this is only one example of the how the initiation of the calibration process may occur then there must be other variations to the initiation process and thus the claims should be interpreted accordingly. The claims should not be limited to only the step before displaying a GUI (graphical user interface).

In response to Appellant's arguments that the prior art of record does not disclose the step of initiation of the calibration/orientation procedure distant the computer, Appellant is directed to figure 2 below. In step one all of the options a) Select orient board from board menu or b) press the orient board button on the initial SMART board screen or c) click or press twice on the SMART board icon in the System Tray (connected Smart board only) or d) press the two pen tray buttons simultaneously (holding for at least one second). These steps are all done *distant* the computer and at the actual whiteboard. It should be noted that the term *distant* is a relative term and the examiner interprets this term that way. The term could be interpreted as being separated by one inch or ten miles since there is only one point of reference, which is the computer. Thus the step of initiating could reasonably be interpreted as being performed anywhere but the computer.

[0016] As described, the electronic whiteboard 100 comprises a location sensitive surface. Examples of location sensitive surfaces include but are not limited to the above mentioned camera based systems, including also but not limited to, laser beam detection methods and infrared positioning devices. A computer projector 103, available from INFOCUS SYSTEMS, 3M, and TOSHIBA among others, is connected to personal computer 102. The physical surface of the electronic whiteboard 100 includes a menu bar 106, which in the exemplary embodiment, includes a calibration button which is the predefined location for beginning the calibration sequence once touch is detected. However, those skilled in the art will appreciate that the predefined location may be not only a logical calibration button on a menu bar 106, but any predefined location or command which may be programmed to begin the calibration sequence, such as an actual physical button located on the frame of the whiteboard, on the whiteboard surface, or remotely from the whiteboard frame or surface. Alternatively, the calibration sequence may also be initiated by a detected voice command.

Figure 1 Appellant's PGPUB document 2001/0032057 (paragraph 0016)

Figure 1 is an excerpt from Appellant's own Patent application publication which shows the step of initiating consist of pushing a calibration button on the white board, Appellant goes on to define the location of initiation and states the initiation step does not have consist of a button on the whiteboard. Appellant states that this step could be performed at any predefined location. Appellant concludes the paragraph by stating that the calibration sequence may also be initiated by a detected voice command. From this excerpt in combination with the term *distant* as described above we can conclude that the step of initiating the calibration process distant the computer entails pushing a button, saying a command or the like at any location other then the computer. Figure 2 below shows that in response to at least one of the four procedures described in step 1 a dialog box appears as a result. It is the examiner's position that this portion reads on appellant's special definition of initiating. According to appellant's claims, specification

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and argument the step of initiation is defined as the step before displaying a GUI (graphical user interface) onto the electronic white board. From figure 2 which is a portion of the prior art of record and from figure 1 which is from Appellants own patent publication document along with the Appellant's special definition it is clear that the claimed invention reads and should not be considered patentable over the prior art of record.

To orient the SMART Board:

1. Select Orient Board from the Board menu.

or

Press the Orient Board button on the initial SMART Board screen.

or

Click or press twice on the SMART Board icon in the System Tray (connected SMART Board only).

or

Press the two Pen Tray buttons simultaneously (holding for at least one second).

The Pick the Orientation Precision dialog box will appear.

2. Preview the three orientation levels - Quick, Standard and Fine - by clicking on the circle next to each heading.

Notice that the number of crosses in the miniature Board screen to the left of these headings increases as you move down the list of headings.

The three orientation levels are described briefly below.

- The Quick orientation requires only 9 clicks to complete and is well-suited for fast orientations (e.g., when a Board is jostled during a presentation).
- The Standard orientation requires 20 clicks and provides a level of accuracy suitable for most systems.
- The Fine orientation involves clicking on 80 individual crosses. While the Fine setting is the most time-consuming to complete, it is recommended for higher-resolution systems that may require a more precise orientation.

initiating

Displaying

3 levels of Orientation/ calibration of whiteboard/ smartboard

Figure 2 (Page 27 of 1998 smart board product manual)

The portion of claim 41 that Appellant regards as Appellant's invention reads as follows: "the improvement comprising the step of initiating the calibration process at a location distant the computer"

As shown above in figure 2 the initiating steps occur at the smart board (distant the computer). Furthermore according to Appellant's definition of initiating the step of initiating occurs before the displaying step occurs.

The portion of claim 46 that Appellant regards as Appellant's invention reads as follows: "the improvement comprising the step of initiating the calibration process being a one step process, directly after which the step of projecting an image on a the whiteboard takes place, wherein the one-step process of initiating calibration occurs at a location distant the computer"

As shown above in figure 2 the initiating steps occur at the smart board (distant the computer). Furthermore according to Appellant's definition of initiating the step of initiating occurs before the displaying step occurs thus meeting that claim limitation.

With regards to the initiating process being a one step process figure 2 clearly shows a one step process in options one (select orient board from board menu) and two (press the orient board button on the initial SMART board screen).

The portion of claim 50 that Appellant regards as Appellant's invention reads as follows: "the improvement comprising the step of projecting a calibration image onto the whiteboard directly preceded by a step of signaling the whiteboard system to project the

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calibration image, the step of signaling the whiteboard system occurring at a location distant the computer."

As shown above in figure 2 the initiating steps occur at the smart board (distant the computer). Furthermore according to Appellant's definition of initiating the step of initiating occurs before the displaying step occurs thus meeting that claim limitation. It should also be noted the "The Pick the Orientation Precession dialog box will appear" is a direct result of one of the four preceding options shown in figure 2.

For the aforementioned reasons the appellants arguments are not persuasive and the rejection is deemed proper.

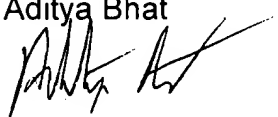
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Aditya Bhat




Conferees:

John Barlow



David Blum



John Barlow
Supervisory Patent Examiner
Technology Center 2800